

103D CONGRESS  
1ST SESSION

# S. 440

To amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to control the diversion of certain chemicals used in the illicit production of controlled substances, to provide greater flexibility in the regulatory controls placed on the legitimate commerce in those chemicals, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 25 (legislative day, JANUARY 5), 1993

Mr. GORTON (for himself, Mr. AKAKA, Mr. D'AMATO, Mr. THURMOND, Mrs. KASSEBAUM, Mr. SHELBY, Mr. DECONCINI, Mr. BREAU, and Mr. BRYAN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to control the diversion of certain chemicals used in the illicit production of controlled substances, to provide greater flexibility in the regulatory controls placed on the legitimate commerce in those chemicals, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Chemical Control  
5 Amendments Act of 1993”.

1 **SEC. 2. DEFINITION AMENDMENTS.**

2 (a) DEFINITIONS.—Section 102 of the Controlled  
3 Substances Act (21 U.S.C. 802) is amended—

4 (1) in paragraph (33) by striking “any listed  
5 precursor chemical or listed essential chemical” and  
6 inserting “any list I chemical or any list II  
7 chemical”;

8 (2) in paragraph (34)—

9 (A) by striking “listed precursor chemical”  
10 and inserting “list I chemical”; and

11 (B) by striking “critical to the creation”  
12 and inserting “important to the manufacturer”;

13 (3) in paragraph (34) (A), (F), and (H), by in-  
14 serting “, its esters” before “and”;

15 (4) in paragraph (35)—

16 (A) by striking “listed essential chemical”  
17 and inserting “list II chemical”;

18 (B) by inserting “(other than a list I  
19 chemical)” before “specified”;

20 (C) by striking “as a solvent, reagent, or  
21 catalyst”; and

22 (5) in paragraph (38) by inserting “or who acts  
23 as a broker or trader for an international trans-  
24 action involving a listed chemical, a tableting ma-  
25 chine, or an encapsulating machine” before the  
26 period;

1 (6) in paragraph (39)(A)—

2 (A) by striking “importation or exportation  
3 of” and inserting “importation, or exportation  
4 of, or an international transaction involving  
5 shipment of,”;

6 (B) in clause (iii) by inserting “or any cat-  
7 egory of transaction for a specific listed chemi-  
8 cal or chemicals” after “transaction”;

9 (C) by amending clause (iv) to read as  
10 follows:

11 “(iv) any transaction in a listed chemical  
12 that is contained in a drug that may be mar-  
13 keted or distributed lawfully in the United  
14 States under the Federal Food, Drug, and Cos-  
15 metic Act (21 U.S.C. 301 et seq.) unless—

16 “(I)(aa) the drug contains ephedrine  
17 or its salts, optical isomers, or salts of op-  
18 tical isomers as the only active medicinal  
19 ingredient or contains ephedrine and thera-  
20apeutically insignificant quantities of an-  
21 other active medicinal ingredient; or

22 “(bb) the Attorney General has deter-  
23 mined under section 204 that the drug or  
24 group of drugs is being diverted to obtain

1 the listed chemical for use in the illicit pro-  
2 duction of a controlled substance; and

3 “(II) the quantity of ephedrine or  
4 other listed chemical contained in the drug  
5 included in the transaction or multiple  
6 transactions equals or exceeds the thresh-  
7 old established for that chemical by the  
8 Attorney General.”; and

9 (D) in clause (v) by striking the semicolon  
10 and inserting “which the Attorney General has  
11 by regulation designated as exempt from the  
12 application of this title and title II based on a  
13 finding that the mixture is formulated in such  
14 a way that it cannot be easily used in the illicit  
15 production of a controlled substance and that  
16 the listed chemical or chemicals contained in  
17 the mixture cannot be readily recovered;”;

18 (7) in paragraph (40) by striking “listed pre-  
19 cursor chemical or a listed essential chemical” each  
20 place it appears and inserting “list I chemical or a  
21 list II chemical”; and

22 (8) by adding at the end the following new  
23 paragraphs:

24 “(43) The term ‘international transaction’ means a  
25 transaction involving the shipment of a listed chemical

1 across an international border (other than a United States  
2 border) in which a broker or trader located in the United  
3 States participates.

4 “(44) The terms ‘broker’ and ‘trader’ mean a person  
5 that assists in arranging an international transaction in  
6 a listed chemical by—

7 “(A) negotiating contracts;

8 “(B) serving as an agent or intermediary; or

9 “(C) bringing together a buyer and seller,  
10 buyer, and transporter, or a seller and transporter.”.

11 (b) REMOVAL OF EXEMPTION OF CERTAIN DRUGS.—

12 (1) PROCEDURE.—Part B of the Controlled  
13 Substances Act (21 U.S.C. 811 et seq.) is amended  
14 by adding at the end the following new section:

15 “REMOVAL OF EXEMPTION OF CERTAIN DRUGS

16 “SEC. 204. (a) REMOVAL OF EXEMPTION.—The At-  
17 torney General shall by regulation remove from exemption  
18 under section 102(39)(A)(iv)(II) a drug or group of drugs  
19 that the Attorney General finds is being diverted to obtain  
20 a listed chemical for use in the illicit production of a con-  
21 trolled substance.

22 “(b) FACTORS TO BE CONSIDERED.—In removing a  
23 drug or group of drugs from exemption under subsection  
24 (a), the Attorney General shall consider, with respect to  
25 a drug or group of drugs that is proposed to be removed  
26 from exemption—

1           “(1) the scope, duration, and significance of the  
2           diversion;

3           “(2) whether the drug or group of drugs is for-  
4           mulated in such a way that it cannot be easily used  
5           in the illicit production of a controlled substance;  
6           and

7           “(3) whether the listed chemical can be readily  
8           recovered from the drug or group of drugs.

9           “(c) SPECIFICITY OF DESIGNATION.—The Attorney  
10          General shall limit the designation of a drug or a group  
11          of drugs removed from exemption under subsection (a) to  
12          the most particularly identifiable type of drug or group  
13          of drugs for which evidence of diversion exists unless there  
14          is evidence, based on the pattern of diversion and other  
15          relevant factors, that the diversion will not be limited to  
16          that particular drug or group of drugs.

17          “(d) REINSTATEMENT OF EXEMPTION WITH RE-  
18          SPECT TO PARTICULAR DRUG PRODUCTS.—

19                 “(1) REINSTATEMENT.—On application by a  
20          manufacturer of a particular drug product that has  
21          been removed from exemption under subsection (a),  
22          the Attorney General shall by regulation reinstate  
23          the exemption with respect to that particular drug  
24          product if the Attorney General determines that the

1 particular drug product is manufactured and distrib-  
2 uted in a manner that prevents diversion.

3 “(2) FACTORS TO BE CONSIDERED.—In decid-  
4 ing whether to reinstate the exemption with respect  
5 to a particular drug product under paragraph (1),  
6 the Attorney General shall consider—

7 “(A) the package sizes and manner of  
8 packaging of the drug product;

9 “(B) the manner of distribution and adver-  
10 tising of the drug product;

11 “(C) evidence of diversion of the drug  
12 product;

13 “(D) any actions taken by the manufac-  
14 turer to prevent diversion of the drug product;  
15 and

16 “(E) such other factors as are relevant to  
17 and consistent with the public health and safe-  
18 ty, including the factors described in subsection  
19 (b) as applied to the drug product.

20 “(3) STATUS PENDING APPLICATION FOR REIN-  
21 STATEMENT.—A transaction involving a particular  
22 drug product that is the subject of a bona fide pend-  
23 ing application for reinstatement of exemption filed  
24 with the Attorney General not later than 60 days  
25 after a regulation removing the exemption is issued

1 pursuant to subsection (a) shall not be considered to  
2 be a regulated transaction if the transaction occurs  
3 during the pendency of the application and, if the  
4 Attorney General denies the application, during the  
5 period of 60 days following the date on which the  
6 Attorney General denies the application, unless—

7 “(A) the Attorney General has evidence  
8 that, applying the factors described in sub-  
9 section (b) to the drug product, the drug prod-  
10 uct is being diverted; and

11 “(B) the Attorney General so notifies the  
12 applicant.

13 “(4) AMENDMENT AND MODIFICATION.—A reg-  
14 ulation reinstating an exemption under paragraph  
15 (1) may be modified or revoked with respect to a  
16 particular drug product upon a finding that—

17 “(A) applying the factors described in sub-  
18 section (b) to the drug product, the drug prod-  
19 uct is being diverted; or

20 “(B) there is a significant change in the  
21 data that led to the issuance of the regula-  
22 tion.”.

23 (2) TECHNICAL AMENDMENT.—The table of  
24 contents of the Comprehensive Drug Abuse Preven-  
25 tion and Control Act of 1970 (84 Stat. 1236) is



1       amended by adding at the end of the section relating  
2       to part B of title II the following new item:

“Sec. 204. Removal of exemption of certain drugs.”.

3       (c) REGULATION OF LISTED CHEMICALS.—Section  
4       310 of the Controlled Substances Act (21 U.S.C. 830) is  
5       amended—

6             (1) in subsection (a)(1)—

7                 (A) by striking “precursor chemical” and  
8                 inserting “list I chemical”; and

9                 (B) in subparagraph (B) by striking “an  
10                essential chemical” and inserting “a list II  
11                chemical”; and

12            (2) in subsection (c)(2)(D) by striking “precursor  
13        chemical” and inserting “chemical control”.

14   **SEC. 3. REGISTRATION REQUIREMENTS.**

15       (a) RULES AND REGULATIONS.—Section 301 of the  
16       Controlled Substances Act (21 U.S.C. 821) is amended  
17       by striking the period and inserting “and to the registra-  
18       tion and control of regulated persons and of regulated  
19       transactions.”.

20       (b) PERSONS REQUIRED TO REGISTER UNDER SEC-  
21       TION 302.—Section 302 of the Controlled Substances Act  
22       (21 U.S.C. 822) is amended—

23             (1) in subsection (a)(1) by inserting “or list I  
24       chemical” after “controlled substance” each place it  
25       appears;

1 (2) in subsection (b)—

2 (A) by inserting “or list I chemicals” after  
3 “controlled substances”; and

4 (B) by inserting “or chemicals” after  
5 “such substances”;

6 (3) in subsection (c) by inserting “or list I  
7 chemical” after “controlled substance” each place it  
8 appears; and

9 (4) in subsection (e) by inserting “or list I  
10 chemicals” after “controlled substances”.

11 (c) REGISTRATION REQUIREMENTS UNDER SECTION  
12 303.—Section 303 of the Controlled Substances Act (21  
13 U.S.C. 823) is amended by adding at the end the following  
14 new subsection:

15 “(h) The Attorney General shall register an applicant  
16 to distribute a list I chemical unless the Attorney General  
17 determines that registration of the applicant is inconsis-  
18 ent with the public interest. Registration under this sub-  
19 section shall not be required for the distribution of a drug  
20 product that is exempted under section 102(39)(A)(iv). In  
21 determining the public interest for the purposes of this  
22 subsection, the Attorney General shall consider—

23 “(1) maintenance by the applicant of effective  
24 controls against diversion of listed chemicals into  
25 other than legitimate channels;

1           “(2) compliance by the applicant with applica-  
2       ble Federal, State and local law;

3           “(3) any prior conviction record of the appli-  
4       cant under Federal or State laws relating to con-  
5       trolled substances or to chemicals controlled under  
6       Federal or State law;

7           “(4) any past experience of the applicant in the  
8       manufacture and distribution of chemicals; and

9           “(5) such other factors as are relevant to and  
10      consistent with the public health and safety.”.

11      (d) DENIAL, REVOCATION, OR SUSPENSION OF REG-  
12      ISTRATION.—Section 304 of the Controlled Substances  
13      Act (21 U.S.C. 824) is amended—

14           (1) in subsection (a)—

15               (A) by inserting “or a list I chemical”  
16              after “controlled substance” each place it ap-  
17              pears; and

18               (B) by inserting “or list I chemicals” after  
19              “controlled substances”;

20           (2) in subsection (b) by inserting “or list I  
21       chemical” after “controlled substance”;

22           (3) in subsection (f) by inserting “or list I  
23       chemicals” after “controlled substances” each place  
24       it appears; and

25           (4) in subsection (g)—

1 (A) by inserting “or list I chemicals” after  
2 “controlled substances” each place it appears;  
3 and

4 (B) by inserting “or list I chemical” after  
5 “controlled substance” each place it appears.

6 (e) PERSONS REQUIRED TO REGISTER UNDER SEC-  
7 TION 1007.—Section 1007 of the Controlled Substances  
8 Import and Export Act (21 U.S.C. 957) is amended—

9 (1) in subsection (a)—

10 (A) in paragraph (1) by inserting “or list  
11 I chemical” after “controlled substance”; and

12 (B) in paragraph (2) by striking “in sched-  
13 ule I, II, III, IV, or V,” and inserting “or list  
14 I chemical,”; and

15 (2) in subsection (b)—

16 (A) in paragraph (1) by inserting “or list  
17 I chemical” after “controlled substance” each  
18 place it appears; and

19 (B) in paragraph (2) by inserting “or list  
20 I chemicals” after “controlled substances”.

21 (f) REGISTRATION REQUIREMENTS UNDER SECTION  
22 1008.—Section 1008 of the Controlled Substances Import  
23 and Export Act (21 U.S.C. 958) is amended—

24 (1) in subsection (c)—

25 (A) by inserting “(1)” after “(c)”; and

1 (B) by adding at the end the following new  
2 paragraph:

3 “(2)(A) The Attorney General shall register an appli-  
4 cant to import or export a list I chemical unless the Attor-  
5 ney General determines that registration of the applicant  
6 is inconsistent with the public interest. Registration under  
7 this subsection shall not be required for the import or ex-  
8 port of a drug product that is exempted under section  
9 102(39)(A)(iv).

10 “(B) In determining the public interest for the pur-  
11 poses of subparagraph (A), the Attorney General shall  
12 consider the factors specified in section 303(h).”;

13 (2) in subsection (d)—

14 (A) in paragraph (3) by inserting “or list  
15 I chemical or chemicals,” after “substances,”;  
16 and

17 (B) in paragraph (6) by inserting “or list  
18 I chemicals” after “controlled substances” each  
19 place it appears;

20 (3) in subsection (e) by striking “and 307” and  
21 inserting “307, and 310”; and

22 (4) in subsections (f), (g), and (h) by inserting  
23 “or list I chemicals” after “controlled substances”  
24 each place it appears.

1 (g) PROHIBITED ACTS C.—Section 403(a) of the  
2 Controlled Substances Act (21 U.S.C. 843(a)) is amend-  
3 ed—

4 (1) by striking “or” at the end of paragraph  
5 (7);

6 (2) by striking the period at the end of para-  
7 graph (8) and inserting “; or”; and

8 (3) by adding at the end the following new  
9 paragraph:

10 “(9) if the person is a regulated person, to dis-  
11 tribute, import, or export a list I chemical without  
12 the registration required by this Act.”.

13 **SEC. 4. REPORTING OF LISTED CHEMICAL MANUFACTUR-**  
14 **ING.**

15 Section 310(b) of the Controlled Substances Act (21  
16 U.S.C. 830(b)) is amended—

17 (1) by inserting “(1)” after “(b)”;

18 (2) by redesignating paragraphs (1), (2), (3),  
19 and (4) as subparagraphs (A), (B), (C), and (D),  
20 respectively;

21 (3) by striking “paragraph (1)” each place it  
22 appears and inserting “subparagraph (A)”;

23 (4) by striking “paragraph (2)” and inserting  
24 “subparagraph (B)”;

1 (5) by striking “paragraph (3)” and inserting  
2 “subparagraph (C)”; and

3 (6) by adding at the end the following new  
4 paragraph:

5 “(2) A regulated person that manufactures a  
6 listed chemical shall report annually to the Attorney  
7 General, in such form and manner and containing  
8 such specific data as the Attorney General shall pre-  
9 scribe by regulation, information concerning listed  
10 chemicals manufactured by the person. The require-  
11 ment of the preceding sentence shall not apply to the  
12 manufacture of a drug product that is exempted  
13 under section 102(39)(A)(iv).”.

14 **SEC. 5. REPORTS BY BROKERS AND TRADERS; CRIMINAL**  
15 **PENALTIES.**

16 (a) NOTIFICATION, SUSPENSION OF SHIPMENT, AND  
17 PENALTIES WITH RESPECT TO IMPORTATION AND EX-  
18 PORTATION OF LISTED CHEMICALS.—Section 1018 of the  
19 Controlled Substances Import and Export Act (21 U.S.C.  
20 971) is amended by adding at the end the following new  
21 subsection:

22 “(d) A person located in the United States who is  
23 a broker or trader for an international transaction in a  
24 listed chemical that is a regulated transaction solely be-  
25 cause of that person’s involvement as a broker or trader

1 shall, with respect to that transaction, be subject to all  
2 of the notification, reporting, recordkeeping, and other re-  
3 quirements placed upon exporters of listed chemicals by  
4 this title and title II.”.

5 (b) PROHIBITED ACTS A.—Section 1010(d) of the  
6 Controlled Substances Import and Export Act (21 U.S.C.  
7 960(d)) is amended to read as follows:

8 “(d) A person who knowingly or intentionally—

9 “(1) imports or exports a listed chemical with  
10 intent to manufacture a controlled substance in vio-  
11 lation of this title or title II;

12 “(2) exports a listed chemical in violation of the  
13 laws of the country to which the chemical is ex-  
14 ported or serves as a broker or trader for an inter-  
15 national transaction involving a listed chemical, if  
16 the transaction is in violation of the laws of the  
17 country to which the chemical is exported;

18 “(3) imports or exports a listed chemical know-  
19 ing, or having reasonable cause to believe, that the  
20 chemical will be used to manufacture a controlled  
21 substance in violation of this title or title II; or

22 “(4) exports a listed chemical, or serves as a  
23 broker or trader for an international transaction in-  
24 volving a listed chemical, knowing, or having reason-  
25 able cause to believe, that the chemical will be used



1 to manufacture a controlled substance in violation of  
2 the laws of the country to which the chemical is  
3 exported,  
4 shall be fined in accordance with title 18, imprisoned not  
5 more than 10 years, or both.”.

6 **SEC. 6. EXEMPTION AUTHORITY; ADDITIONAL PENALTIES.**

7 (a) NOTIFICATION REQUIREMENT.—Section 1018 of  
8 the Controlled Substances Import and Export Act (21  
9 U.S.C. 971), as amended by section 5(a), is amended by  
10 adding at the end the following new subsection:

11 “(e)(1) The Attorney General may by regulation re-  
12 quire that the 15-day notification requirement of sub-  
13 section (a) apply to all exports of a listed chemical to a  
14 specified country, regardless of the status of certain cus-  
15 tomers in such country as regular customers, if the Attor-  
16 ney General finds that such notification is necessary to  
17 support effective chemical diversion control programs or  
18 is required by treaty or other international agreement to  
19 which the United States is a party.

20 “(2) The Attorney General may by regulation waive  
21 the 15-day notification requirement for exports of a listed  
22 chemical to a specified country if the Attorney General  
23 determines that such notification is not required for effec-  
24 tive chemical diversion control. If the notification require-  
25 ment is waived, exporters of the listed chemical shall be

1 required to submit to the Attorney General reports of indi-  
2 vidual exportations or periodic reports of such exportation  
3 of the listed chemical, at such time or times and contain-  
4 ing such information as the Attorney General shall estab-  
5 lish by regulation.

6 “(3) The Attorney General may by regulation waive  
7 the 15-day notification requirement for the importation of  
8 a listed chemical if the Attorney General determines that  
9 such notification is not necessary for effective chemical di-  
10 version control. If the notification requirement is waived,  
11 importers of the listed chemical shall be required to submit  
12 to the Attorney General reports of individual importations  
13 or periodic reports of the importation of the listed chemi-  
14 cal, at such time or times and containing such information  
15 as the Attorney General shall establish by regulation.”.

16 (b) PROHIBITED ACTS A.—Section 1010(d) of the  
17 Controlled Substances Import and Export Act (21 U.S.C.  
18 960(d)), as amended by section 5(b), is amended—

19 (1) by striking “or” at the end of paragraph  
20 (3);

21 (2) by striking the comma at the end of para-  
22 graph (4) and inserting a semicolon; and

23 (3) by adding at the end the following new  
24 paragraphs:

1           “(5) imports or exports a listed chemical, with  
2           the intent to evade the reporting or recordkeeping  
3           requirements of section 1018 applicable to such im-  
4           portation or exportation by falsely representing to  
5           the Attorney General that the importation or expor-  
6           tation qualifies for a waiver of the 15-day notifica-  
7           tion requirement granted pursuant to section  
8           1018(e) (2) or (3) by misrepresenting the actual  
9           country of final destination of the listed chemical or  
10          the actual listed chemical being imported or ex-  
11          ported; or

12           “(6) imports or exports a listed chemical in vio-  
13          lation of section 1007 or 1018,”.

14   **SEC. 7. AMENDMENTS TO LIST I.**

15          Section 102(34) of the Controlled Substances Act (21  
16   U.S.C. 802(34)) is amended—

17           (1) by striking subparagraphs (O), (U), and  
18          (W);

19           (2) by redesignating subparagraphs (P) through  
20          (T) as (O) through (S), subparagraph (V) as (T),  
21          and subparagraphs (X) and (Y) as (U) and (X), re-  
22          spectively;

23           (3) in subparagraph (X), as redesignated by  
24          paragraph (2), by striking “(X)” and inserting  
25          “(U)”; and

1 (4) by inserting after subparagraph (U), as re-  
2 designated by paragraph (2), the following new sub-  
3 paragraphs:

4 “(V) benzaldehyde.

5 “(W) nitroethane.”.

6 **SEC. 8. ELIMINATION OF REGULAR SUPPLIER STATUS AND**  
7 **CREATION OF REGULAR IMPORTER STATUS.**

8 (a) DEFINITION.—Section 102(37) of the Controlled  
9 Substances Act (21 U.S.C. 802(37)) is amended to read  
10 as follows:

11 “(37) The term ‘regular importer’ means, with re-  
12 spect to a listed chemical, a person that has an established  
13 record as an importer of that listed chemical that is re-  
14 ported to the Attorney General.”.

15 (b) NOTIFICATION.—Section 1018 of the Controlled  
16 Substances Act (21 U.S.C. 971) is amended—

17 (1) in subsection (b)—

18 (A) in paragraph (1) by striking “regular  
19 supplier of the regulated person” and inserting  
20 “to an importation by a regular importer”; and

21 (B) in paragraph (2)—

22 (i) by striking “a customer or supplier  
23 of a regulated person” and inserting “a  
24 customer of a regulated person or to an  
25 importer”; and

1 (ii) by striking “regular supplier” and  
2 inserting “the importer as a regular im-  
3 porter”; and

4 (2) in subsection (c)(1) by striking “regular  
5 supplier” and inserting “regular importer”.

6 **SEC. 9. ADMINISTRATIVE INSPECTIONS AND AUTHORITY.**

7 Section 510 of the Controlled Substances Act (21  
8 U.S.C. 880) is amended—

9 (1) by amending subsection (a)(2) to read as  
10 follows:

11 “(2) places, including factories, warehouses,  
12 and other establishments, and conveyances, where  
13 persons registered under section 303 (or exempt  
14 from registration under section 302(d) or by regula-  
15 tion of the Attorney General) or regulated persons  
16 may lawfully hold, manufacture, distribute, dispense,  
17 administer, or otherwise dispose of controlled sub-  
18 stances or listed chemicals or where records relating  
19 to those activities are maintained.”; and

20 (2) in subsection (b)(3)—

21 (A) in subparagraph (B) by inserting “,  
22 listed chemicals,” after “unfinished drugs”; and

23 (B) in subparagraph (C) by inserting “or  
24 listed chemical” after “controlled substance”

1           and inserting “or chemical” after “such sub-  
2           stance”.

3   **SEC. 10. THRESHOLD AMOUNTS.**

4           Section 102(39)(A) of the Controlled Substances Act  
5   (21 U.S.C. 802(39)(A)), as amended by section 2, is  
6   amended by inserting “of a listed chemical, or if the Attor-  
7   ney General establishes a threshold amount for a specific  
8   listed chemical,” before “a threshold amount, including a  
9   cumulative threshold amount for multiple transactions”.

10   **SEC. 11. MANAGEMENT OF LISTED CHEMICALS.**

11           (a) IN GENERAL.—Part C of the Controlled Sub-  
12   stances Act (21 U.S.C. 821 et seq.) is amended by adding  
13   at the end the following new section:

14                   “MANAGEMENT OF LISTED CHEMICALS

15           “SEC. 311. (a) OFFENSE.—It is unlawful for a per-  
16   son who possesses a listed chemical with the intent that  
17   it be used in the illegal manufacture of a controlled sub-  
18   stance to manage the listed chemical or waste from the  
19   manufacture of a controlled substance otherwise than as  
20   required by regulations issued under sections 3001, 3002,  
21   3003, 3004, and 3005 of the Solid Waste Disposal Act  
22   (42 U.S.C. 6921, 6922, 6923, 6924, and 6925).

23           “(b) ENHANCED PENALTY.—(1) In addition to a  
24   penalty that may be imposed for the illegal manufacture,  
25   possession, or distribution of a listed chemical or toxic res-  
26   idue of a clandestine laboratory, a person who violates sub-

1 section (a) shall be assessed the costs described in para-  
2 graph (2) and shall be imprisoned as described in para-  
3 graph (3).

4 “(2) Pursuant to paragraph (1) a defendant shall be  
5 assessed the following costs to the United States, a State,  
6 or another authority or person that undertakes to correct  
7 the results of the improper management of a listed  
8 chemical:

9 “(A) The cost of initial cleanup and disposal of  
10 the listed chemical and contaminated property.

11 “(B) The cost of restoring property that is  
12 damaged by exposure to a listed chemical for reha-  
13 bilitation under Federal, State, and local standards.

14 “(3)(A) A violation of subsection (a) shall be pun-  
15 ished as a class D felony, or in the case of a willful viola-  
16 tion, as a class C felony.

17 “(B) It is the sense of the Congress that guidelines  
18 issued by the Sentencing Commission regarding sentenc-  
19 ing under this paragraph should recommend that the term  
20 of imprisonment for a violation of subsection (a) should  
21 not be less than 5 years, nor less than 10 years in the  
22 case of a willful violation.

23 “(4) A court may order that all or a portion of the  
24 earnings from work performed by a defendant in prison

1 be withheld for payment of costs assessed under para-  
2 graph (2).

3 “(c) USE OF FORFEITED ASSETS.—The Attorney  
4 General may direct that assets forfeited under section 511  
5 in connection with a prosecution under this section be  
6 shared with State agencies that participated in the seizure  
7 or cleaning up of a contaminated site.”.

8 (b) EXCEPTION TO DISCHARGE IN BANKRUPTCY.—  
9 Section 523(a) of title 11, United States Code, is amend-  
10 ed—

11 (1) by striking “or” at the end of paragraph  
12 (11);

13 (2) by striking the period at the end of para-  
14 graph (12) and inserting “; or”; and

15 (3) by adding at the end the following new  
16 paragraph:

17 “(13) for costs assessed under section 311(b) of  
18 the Controlled Substances Act.”.

19 **SEC. 12. FORFEITURE EXPANSION.**

20 Section 511(a) of the Controlled Substances Act (21  
21 U.S.C. 881(a)) is amended—

22 (1) in paragraph (6) by inserting “or listed  
23 chemical” after “controlled substance”; and

24 (2) in paragraph (9) by striking “a felony pro-  
25 vision of”.



1 **SEC. 13. ATTORNEY GENERAL ACCESS TO THE NATIONAL**  
2 **PRACTITIONER DATA BANK.**

3 Part B of the Health Care Quality Improvement Act  
4 of 1986 (42 U.S.C. 11131 et seq.) is amended by adding  
5 at the end the following new section:

6 **“SEC. 428. DISCLOSURE OF INFORMATION TO THE ATTOR-**  
7 **NEY GENERAL.**

8 “Information respecting physicians or other licensed  
9 health care practitioners reported to the Secretary (or to  
10 the agency designated under section 424(b)) under this  
11 part or section 1921 of the Social Security Act (42 U.S.C.  
12 1396r-2) shall be provided to the Attorney General. The  
13 Secretary shall—

14 “(1) transmit to the Attorney General such in-  
15 formation as the Attorney General may designate or  
16 request to assist the Drug Enforcement Administra-  
17 tion in the enforcement of the Controlled Substances  
18 Act (21 U.S.C. 801 et seq.) and other laws enforced  
19 by the Drug Enforcement Administration; and

20 “(2) transmit such information related to  
21 health care providers as the Attorney General may  
22 designate or request to assist the Federal Bureau of  
23 Investigation in the enforcement of title 18, the Act  
24 entitled ‘An Act to regulate the practice of pharmacy  
25 and the sale of poison in the consular districts of the  
26 United States in China’, approved March 3, 1915

1 (21 U.S.C. 201 et seq.), and chapter V of the Fed-  
2 eral Food, Drug, and Cosmetic Act (21 U.S.C. 351  
3 et seq.).”.

4 **SEC. 14. REGULATIONS AND EFFECTIVE DATE.**

5 (a) REGULATIONS.—The Attorney General shall, not  
6 later than 90 days after the date of enactment of this Act,  
7 issue regulations necessary to carry out this Act.

8 (b) EFFECTIVE DATE.—This Act and the amend-  
9 ments made by this Act shall become effective on the date  
10 that is 120 days after the date of enactment of this Act.

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